

Atty Docket No.: JGR 1023-1

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Ernest J. Belfel, Jr.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**In re Application of:****Mark W. DAVIS****Application No. 09/893,301****Confirmation No. 1991****Filed: 27 June 2001****Title: Method and Apparatus for
Incremental Computation of the
Accuracy of a Categorization-
by-Example System****Group Art Unit: 2162****Examiner: Cheongshan CHEN****CUSTOMER NO. 22470**

COMMISSIONER FOR PATENTS
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STATEMENT OF SUBSTANCE OF INTERVIEW – Corrected Date of Transmission

Sir:

Applicants requested and were granted an in-person interview with Examiner Cheongshan Chen, which took place on Wednesday, 5 October 2005. This document summarizes the interview.

Prior to the interview, we submitted a proposed agenda, the substance of which is reproduced below:

"The spirit of this interview is to advance the case towards allowance. We recently responded to a final office action. The Advisory Action in this case might be held until after the interview.

Applicants are prepared to file an RCE, if doing so would significantly advance the case. On the other hand, the case also appears to be ready for appeal.

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Applicants are interested in presenting an amended claim, if doing so would result in allowance.

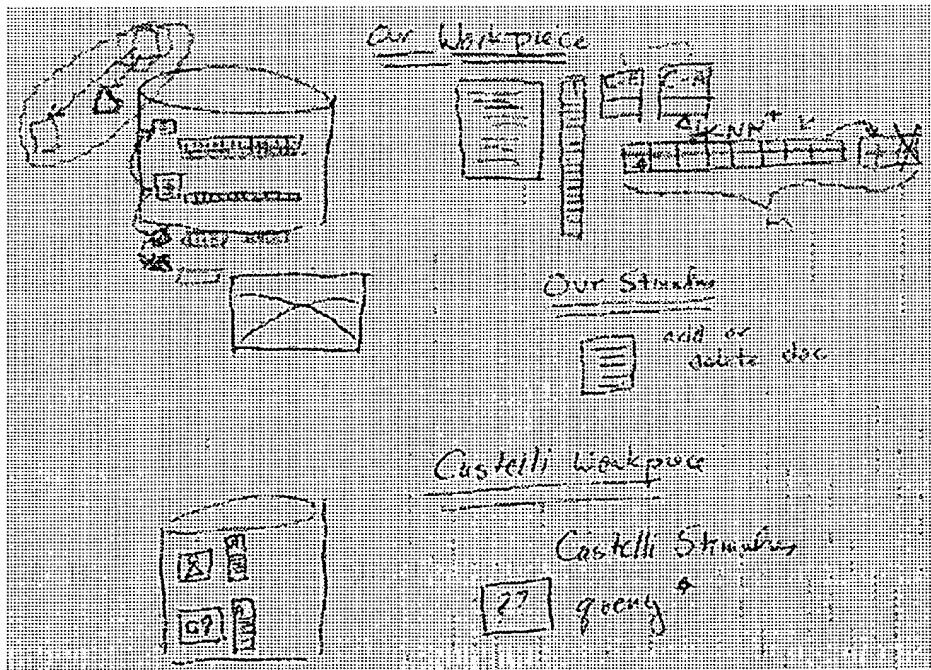
Issues for the interview include:

1. The standard for determining whether words in the preamble are considered limitations of the claim.
2. Whether moving words from the preambles into elements of the claims would result in allowance.

In preparation for the interview, we would appreciate it if the Examiners would review MPEP section 2111.02 and *Catalina Marketing International, Inc. v. Coolsavings.Com, Inc.*, 289 F.3d 801, 808-802 (Fed. Cir 2002) cited in MPEP section 2111.02 and how these authorities applying to the previous rounds of rejection."

During the interview, most of our time was spent on a technology tutorial, which included the role of the workpiece in understanding the elements of a claim or the disclosure of a reference. The preamble is frequently used to describe a workpiece. Unless you understand the workpiece, finding words to match words of a claim element may be a futile effort. For instance, both raw silicon wafers and rubber tractor tires are round, so references discussing either would make reference to roundness. Ignoring the workpiece, one might be tempted to make the mistake of applying the rubber tire reference to the silicon wafer.

We used the sketch reproduced below as a focal point for discussion, and left a copy with the Examiner.



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Our workpiece is a KNN database, for which lists have been constructed of neighbors of particular documents. Our stimulus, for instance, is to add or delete a document. In contrast, Castelli's workpiece is typically an image database, with attributes extracted from the images. Castelli's stimulus is a query. Understanding this context allowed us to work through some claims.

We walked through claim 4, to come to a common understanding of the terms used and where their antecedent basis was found. Having the workpiece in mind made the claim much easier to review. The claim did not seem at all similar to Castelli, with the workpiece in mind.

We also reviewed claim 1.

It was our impression that the Examiner believed that there would be allowable subject matter in the claims, subject to a further search.

We very much appreciate the Examiner's time and attentiveness to reviewing the technology disclosed and the reference cited.

The undersigned can ordinarily be reached at his office at (650) 712-0340 from 8:30 a.m. to 5:30 p.m. PST, Monday through Friday, and can be reached at his cell phone at (415) 902-6112 most other times.

Respectfully submitted,



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Dated: 16 November 2005

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